

DETAILED ACTION

Newly submitted claims 2-62 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- Presently cancelled claims 1, 4-9, and 12-33 are drawn to duplication of data in caches and *storing the data on storage devices* as well as *recovery of data from storage devices* when data is unable to be retrieved.
- Currently amended claims 2-3, 10-11, and new claims 34-40 are drawn to duplication of data in caches and *storing the duplicated data on the caches* as well as *recovery of data from the caches* when data is lost.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 2-3, 10-11, and 34-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

However, the amendment filed on 7 January 2009 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention as noted *supra*.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the

omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Bradley whose telephone number is (571) 272-8575. The examiner can normally be reached on 6:30-3:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Ellis can be reached on (571) 272-4205. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KLE/mb

/Kevin L Ellis/
Acting SPE of Art Unit 2187